bsb

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 4082 OF 2007

Shri Madanlal Rajan Saroj ... Petitioner

V/s

M/s. Dashmesh Cables ... Respondent

Shri Pandey i./by M/s. Pandey & Co. for the petitioner.

Mr.A.K.Jalisatgi with Mr.Amol Desai for the respondent.

CORAM: SMT. NISHITA MHATRE, J.

DATED: 29TH AUGUST, 2007.

P.C.:

1. The petitioner has filed the petition against the award dated 11.9.2006 in Reference (IDA) No. 139 of 2002.

2. The reference was made by the appropriate Government for an adjudication as to whether the termination of service of the workman from 13.1.2001 was legal and proper. The workman had pleaded in his statement of claim that he was terminated from service on 13.1.2001. He has also pleaded that an enquiry was conducted against him and that he remained present for the enquiry with his defence representative on 19.9.2001 and

23.9.2001. Thereafter he stopped attending the enquiry. The enquiry was concluded ex-parte and the petitioner was furnished a copy of the enquiry report and asked to submit his comments. The petitioner has in fact submitted his comments about the enquiry. The respondent dismissed the petitioner on 19.4.2002 for remaining absent from duty from 13.1.2001. The Labour Court has rightly held that the industrial dispute which has been referred to is with respect to the termination of service on 13.1.2001 and not on 19.4.2002. The Labour Court has rightly held that the workman has not proved his case that his services were terminated on 13.1.2001.

3. It is now submitted that no enquiry was held and that the matter be remanded to the Labour Court so that the workman would be properly advised in the reference. This submission cannot be accepted as it is contrary to the pleadings in the statement of claim. Besides, the workman has not stepped into the witness box before the Labour Court to prove that no enquiry was held and, therefore, there is no question of remanding the petition to the Labour Court.

4. Petition rejected.

.....